

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

1498-112585

MATTHEW D. HEIFER

vs.

FESTOOL USA LLC, FESTOOL GMBH, AND ALL-
WALL EQUIPMENT CO., INC. T/A ALL-WALL
ONLINE

No: 5:22-CV-05071-JMB

**ANSWER OF DEFENDANT, FESTOOL USA LLC, TO PLAINTIFF'S COMPLAINT
WITH AFFIRMATIVE DEFENSES**

Defendant, Festool USA LLC, by and through its attorneys, Marks, O'Neill, O'Brien, Doherty & Kelly, P.C., hereby responds to the Civil Action Complaint of Plaintiff as follows:

I. PARTIES

1. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

2. Admitted in part, denied in part . It is admitted that Answering Defendant, is a limited liability corporation, organized and existing under the laws of the state other than Pennsylvania, with its principal place of business at 400 N. Enterprise Blvd., Lebanon, IN 46052. It is specifically denied that Answering Defendant, is in the business of designing, fabricating or manufacturing Festool products. It is specifically denied that Festool GmbH, is Answering Defendant's parent corporation. The remaining allegations are directed to a party other than answering Defendant. To the extent that Plaintiff's allegations constitute conclusions of law,

they are denied. To the extent the Plaintiffs' allegations are factual in nature, they are specifically denied.

3. Admitted in part, denied in part. It is admitted that this Defendant sells products to Answering Defendant. The remaining allegations refer to a Defendant other than Answering Defendant, and, therefore, no answer is required. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied. To the extent the Plaintiffs' allegations are factual in nature, they are specifically denied.

4. Admitted in part, denied in part Denied. It is admitted that this Defendant, is an authorized seller of products for Answering Defendant. The remaining averments refer to a Defendant other than Answering Defendant, and, therefore, no answer is required. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied. To the extent the Plaintiffs' allegations are factual in nature, they are specifically denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

II. JURISDICTION and VENUE

5. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

III. CAUSES OF ACTION

COUNT I PRODUCT LIABILITY

6. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

7. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

8. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

9. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

10. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

11. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

12. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

13. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

14. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

15. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

16. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied

and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

17. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

18. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

19. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

20. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

21. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

22. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

23. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

24. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

25. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

26. Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

27. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial.

28. (a)-(i) Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

WHEREFORE, Answering Defendant hereby demands judgment in its favor and against all other parties, with interest, attorney's fees and costs.

COUNT II. BREACH OF WARRANTY

29. Answering Defendant incorporates by reference its answers to all previous allegations in all previous counts as fully as though the same were set forth herein at length.

30. (a)-(c) Denied. This paragraph of Plaintiff's Complaint is a conclusion of law not requiring a response. If a responsive pleading is deemed required, all of the allegations contained in this paragraph are specifically denied, and strict proof thereof is hereby demanded at the time of trial.

31. Denied. After reasonable investigation, Answering Defendants are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the averments contained in this paragraph of Plaintiff's Complaint, and they are, therefore, denied and strict proof thereof is hereby demanded at the time of trial. To the extent that Plaintiff's allegations constitute conclusions of law, they are denied.

WHEREFORE, Answering Defendant hereby demands judgment in its favor and against all other parties, with interest, attorney's fees and costs.

AFFIRMATIVE DEFENSES DIRECTED TO PLAINTIFF

FIRST AFFIRMATIVE DEFENSE

If the Plaintiff suffered damages, the same were caused by Plaintiff's contributory negligence.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff's cause of action is barred by the applicable Statute of Limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims fail to state any cause of action against Answering Defendant upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

The product in question was sold to an informed intermediary or sophisticated user which exercised and/or had exclusive control over the operation, management, and maintenance of the subject product and who possessed special expertise in the use and had particular knowledge of the inherent characteristics of the product and its various components.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff was using the subject product in an unanticipated, unforeseeable, and/or unintended manner at the time of the alleged accident.

SIXTH AFFIRMATIVE DEFENSE

Answering Defendant avails itself of all statutory defenses and burdens of proof as afforded by law.

SEVENTH AFFIRMATIVE DEFENSE

At the time the subject product left Answering Defendant's control, it was designed and manufactured in accordance with the State of the Art.

WHEREFORE, Answering Defendant hereby demands judgment in its favor and against all other parties, with interest, attorney's fees and costs.

/s/ Joan D. Daly

Joan D. Daly, Esquire

I.D. No.: 41325

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CERTIFICATE OF SERVICE

I hereby certify that this 21st day of February 2023, a true and correct copy of the Defendant's pleading was served on all parties via electronic service of the Court and is available for viewing and downloading from the ECF system and/or by first-class mail, postage prepaid.

/s/ Joan D. Daly

Joan D. Daly, Esquire

I.D. No.: 41325

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